

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION AT COLUMBUS**

DAVID BARRON,

Petitioner,

: Case No. 2:24-cv-3848

- vs -

District Judge Michael H. Watson
Magistrate Judge Michael R. Merz

WARDEN, Madison Correctional
Institution,

:

Respondent.

TRANSFER ORDER

This habeas corpus case, brought *pro se* by Petitioner David Barron under 28 U.S.C. § 2254, is before the Court for preliminary review under Rule 4 of the Rules Governing § 2254 Cases.

The case was initiated August 15, 2024, by the filing of Petitioner's Motion for Leave to Proceed *in forma pauperis* (ECF No. 1) and his Motion to Appoint Counsel (ECF No. 2). Although the case was initially assigned to Magistrate Judge Peter B. Silvain, Jr., the Magistrate Judge reference was transferred to the undersigned on August 19, 2024 (ECF No. 3).

Upon examination of the Petition (attached to the Motion for Leave to Proceed *in forma pauperis*) the Court finds it seeks habeas corpus relief from the same conviction attacked in *Barron v. Hildebrand*, Case No. 1:23-cv-591. Indeed Petitioner admits that the same conviction is being attacked (See Petition, ECF No. 1-1, PageID 21).

Under 28 U.S.C. § 2244(b), a person may not file a second or successive habeas corpus petition attacking the same state court judgment as a prior petition without the permission of the circuit court of appeals. When a person attempts such a second or successive filing without proof of circuit court permission, the District Court is required to transfer the case to the circuit court for its consideration. *In re Sims*, 111 F.3d 45 (6th Cir. 1997). The Petition tendered with the Motion for *in forma pauperis* status is plainly a second or successive petition over which this Court has no jurisdiction without circuit court permission. *Burton v. Stewart*, 549 U.S. 147 (2007); *Franklin v. Jenkins*, 839 F.3d 465(6th Cir. 2016).

Accordingly, the Clerk is ordered to TRANSFER this case to the United States Court of Appeals for the Sixth Circuit for that court's determination of whether the case may proceed.

August 20, 2024.

s/ *Michael R. Merz*
United States Magistrate Judge